UNITED STATES OF AMERIICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
SAN FRANCISCO DIVISION OF JUDGES

KAISER FOUNDATION HEALTH PLAN, INC., KAISER FOUNDATION HOSPITALS, SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP, AND THE PERMAMENTE MEDICAL GROUP, INC.

and **Case 32–CA–169979**

ENGINEERS AND SCIENTISTS OF CALIFORNIA, IFPTE LOCAL 20, AFL–CIO & CLC

Judith Chang, Esq.,
for the General Counsel.
Michael Lindsay and *Alicia Anderson, Esqs. (Nixon Peabody, LLP)*,
for the Respondents.
Danielle Lucido, Esq.,
for the Charging Party.

DECISION

STATEMENT OF THE CASE

LISA D. THOMPSON, Administrative Law Judge. On August 21, 2015, The Permanente Medical Group, Inc. (PMG) sent the Engineers of Scientists of California, Local 20, IFPTE, AFL–CIO & CLC (Charging Party or the Union) a copy of its revised Electronic Assets Usage Policy NATL.HR.025 (the Policy or Electronic Assets Policy).[1] PMG, Kaiser Foundation Hospitals (KFH), Southern California Permanente Medical Group (SCPMG), and Kaiser Foundation Health Plan, Inc. (KFHP) (collectively, Respondents) adopted the Policy, which was made retroactively effective as of January 1, 2015.[2]

[1] GC Exh. l(a) & (c). Abbreviations used in this decision are as follows: "Tr." for the Transcript, "Jt Exh." for Joint exhibits, "GC Exh." for the General Counsel's exhibits, "CP Exh." for the Charging Party's exhibits, "R. Exh." for Respondents' Exhibits, "GC Br." for the General Counsel's brief, "CP Br." for the Charging Party's brief and "R. Br." for Respondents' brief. Specific citations to the transcript and exhibits are included where appropriate to aid review, and are not necessarily exclusive or exhaustive.

[2] Jt. Exh. 1, ¶2.

Sections 5.2.1 and 5.2.2 of Respondents' Policy are at issue in this case.[3] Section 5.2.1 limits employees' personal use of Respondents' email system during non-working time to usage that is "incidental and limited in frequency and scope." Section 5.2.2 prohibits employees from sending "mass" personal messages on non-working time unless there is a clear business need and only if prior authorization from management is obtained. The General Counsel asserts in this complaint that, in maintaining and enforcing the aforementioned sections in their Policy, Respondents violate Section 8(a)(1) of the National Labor Relations Act (the Act) by interfering with and/or restraining employees' statutorily protected communications. Respondents deny all material allegations.

This case was tried before me on July 11, 2017 and September 19, 2017, in Oakland, California. After the trial, the General Counsel, the Charging Party and Respondents filed their post-hearing briefs, which I have read and carefully considered.

Based upon the parties' briefs and the entire record, including the testimony of the witnesses and my observation of their demeanor, I conclude that Respondents violated the Act as alleged.

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3 Originally, this case involved three sections of Respondents' Policy, Sections 5.2.1, 5.2.2, and 5.3.8 – which precludes employees from making audio, digital or video recordings without the consent and authorization of everyone being recorded.

On March 31, 2017, the Regional Director of Region 32 issued a Complaint and Notice of Hearing alleging, among other things, that Respondents' maintenance and enforcement of Sections 5.2.1, 5.2.2 and 5.3.8 violate Section 8(a)(l) of the Act. GC Exh. 1(e). In so doing, the General Counsel challenged Respondents' Policy concerning *all* of their electronic assets (i.e., email, computers, mobile telephones, hand-held electronic devices, etc.). However, at trial, the General Counsel withdrew its challenge concerning employees' computer, mobile telephone and hand-held electronic device usage; rather, asserted a violation solely with respect to employees' personal email use and Respondents' no-recording policy. The case was tried to conclusion.

On December 14, 2017, in *Boeing Company*, 365 NLRB No. 154 (2017), the National Labor Relations Board (the Board) overruled parts of *Lutheran Heritage Village-Lithonia*, 343 NLRB 646 (2004) and announced new standards by which facially neutral rules, such as Section 5.3.8 – Respondents' no-recording policy, should be analyzed in order to determine whether such rules violate the Act. The Board announced these new standards, which significantly changed the analytical framework under *Lutheran Heritage*, made the new standards retroactive and thus applicable to the instant case.

On February 20, 2018, I reopen the record to allow the parties to supplement their briefs to address whether Respondents' no-recording policy violated the Act in light of the newly announced standards in *Boeing*. Charging Party supplemented its brief. On April 18, 2018, because counsel had been on extended leave (and was unaware of my Order reopening the record), the General Counsel sought leave to withdraw the complaint allegations regarding Section 5.3.8 – Respondents' no-recording policy, in light of the Board's decision in *Boeing*. I granted counsel's request. Accordingly, this decision only addresses whether Sections 5.2.1 and 5.2.2, regarding employees' personal email use, violate Section 8(a)(1).

I. FACTS

A. Jurisdiction and Labor Organization Status

It is undisputed that, at all material times, Kaiser Foundation Health Plan, Inc. (KFHP), a non-profit public benefit and charitable corporation, has been engaged in providing/arranging healthcare services to voluntarily-enrolled members in the state of California. It is also undisputed that Kaiser Foundation Hospitals (KFH), a non-profit public benefit and charitable corporation, owns and operates general acute care hospitals and ambulatory outpatient clinics within the state of California.

Similarly, Southern California Permanente Medical Group (SCPMG), a partnership of physicians, provides medical services to members of KFH in the Kaiser Permanente Southern California region. Lastly, the Permanente Medical Group, Inc. (PMG), a professional medical corporation of physicians, provides medical services for Kaiser Permanente members within the state of California.

All Respondents, in conducting their operations during the calendar year ending December 31, 2016, derived gross revenue in excess of $250,000. Respondents also received products, goods and materials valued in excess of $5,000 from points outside of California. Accordingly, I find that Respondents are employers engaged in commerce within the meaning of Sections 2(2), (6) and (7) of the Act and have been health care institutions within the meaning of Section 2(14) of the Act.

It is undisputed, and I find that, at all material times, IFPTE Local 20 has been a labor organization within the meaning of Section 2(5) of the Act.

B. Employees' Use of Respondents' Email System

It is undisputed that, since January 1, 2015, Respondents have maintained Sections 5.2.1 and 5.2.2 within their Electronic Assets Policy. Although the Policy was created and adopted in February 2008 and has undergone several revisions, this case concerns the 2015 version of the Policy.[4]

Respondents' Policy governs employees' use of their computers, cell phones and email system, which are made available for employees during working hours.[5] However, as previously stated, this complaint (and decision) only involves employees' use of Respondents' email system.

Sections 5.2.1 and 5.2.2 limit employees' personal use of Respondents' email system, are applicable nationwide and available on Respondents' intranet:

[4] R. Exh. 6, *see also* Jt. Exh. 1.

[5] Jt. Exh. 1.

> 5.2.1 Personal Use of KP Electronic Assets, as defined in this policy, must be incidental, limited in frequency and scope, cannot incur additional costs to KP, and cannot impact employee performance.[6]
>
> 5.2.2 Employees should not send "mass" personal messages (sent to large number of recipients). For example, employees may not use KP's Electronic Assets to initiate or forward chain letters, jokes, or other personal mass mailings that have no business purpose. Employees may only send authorized messages to large numbers of recipients when there is a clear business need to do so, and only as authorized by the appropriate KP manager.

Employees are allowed to engage in email communications involving "wages, hours, benefits and other terms and conditions of employment" during non-working time "[which] are protected under Section 7 of the National Labor Relations Act."[7]

Neither the General Counsel nor the Charging Party called any witnesses. However, three (3) witnesses testified on behalf of Respondents.

Derek Reimer (Reimer), KFH's and KFHP's Human Resources Director, played no role in and had no involvement with the creation and development of Sections 5.2.1 and 5.2.2 of Respondents' Policy. Yet, Reimer testified that limiting employees' personal email use and prohibiting "mass" personal emails was necessary to help prevent the "disruption of [Respondents'] systems and disruption to the workplace."[8] According to Reimer, employees' unlimited personal use of Respondents' email and/or sending large "mass" personal emails "would be an unnecessary drain on [Respondents'] network."[9] Reimer stated, since Respondents' email systems are needed to provide patient care and further Respondents' business, the aforementioned Policy sections were necessary so that the system would not "be bogged down with Gmail and mass messages, which might have large attachments…"[10]

While I found Reimer's overall testimony credible, he presented no concrete evidence or examples of how employees' personal email usage or mass personal email distributions bogged down Respondents' email systems or that such mass personal emails ever disrupted Respondents' business. Accordingly, I accord Reimer's testimony little probative value.

James Goddard (Goddard), Respondents' Chief Information Security Officer, testified that limiting/prohibiting mass – defined as an email sent to 500+ recipients – emails was

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[6] "KP" denotes Kaiser Permanente. GC Exh. 2 at 3. Personal use of Respondents' email is defined as use for "personal reasons that do not relate to an employee's work for KP or other issues relating to KP."

[7] Id. at 2 (Section 4.2.8) and at 4 (Section 5.3.4).

[8] Tr. 95.

[9] Id.

[10] Id.

necessary to conserve storage capacity on Respondents' network and prevent network processing problems.[11] For example, Goddard testified that, if someone sent an email to all 200,000 of Respondents' employees, "that's a [performance] hit on the system – 200,000 emails all at once…" Goddard hypothesized that, if all 200,000 employees replied to the email, such a situation could overwhelm the system and "could potentially bring the email system to its knees."[12]

However, Goddard admitted, on cross examination, that Respondents' email system has been programmed to prevent "mass" *work related* emails.[13] While Goddard was equivocal about whether the program prevents mass *personal* email distributions, Respondents' network would prevent a mass business email distribution from shutting down its system.

Although I found Goddard answered questions openly and directly and his testimony was straightforward and unambiguous on direct examination, he was somewhat vague and hesitant in his responses on cross examination by Charging Party counsel. Ultimately, Goddard admitted that he "had no recollection of any involvement" in the creation of Sections 5.2.1 and 5.2.2., I found Goddard's testimony on this point inherently implausible, especially considering his purview over the security of Respondents' network and email systems, that he could not remember whether he participated in or gave any input on the Policy's formation, effectiveness and/or implementation since 2015. In addition, because Goddard also failed to present any evidence that mass personal emails have disrupted or shut down Respondents' email system, I accord his testimony minimum probative weight.[14]

Lastly, National Privacy and Security Compliance Officer Scott Morgan (Morgan) testified that employees sending "mass" email distributions could potentially lead to "the sharing, the disclosure of private health information (PHI) to people that do not need it, when it's a large distribution."[15] However, because Morgan failed to give any examples of a circumstance where an employee shared PHI by sending a mass personal email, how it affected Respondents' email systems, and because he admitted he had no part in creating/drafting Respondents' Policy, I accord Morgan's testimony little probative value.

Nevertheless, it is undisputed that Respondents never created, issued, maintained or enforced the Policy in order to remedy any unfair labor practices.[16] Moreover, there is no evidence that the Policy was promulgated in response to union activity or that it was applied to restrict Section 7 rights. No employee has ever been disciplined for violating the provisions of the Policy.

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[11] Tr. 136.
[12] Tr. 137.
[13] Tr. 136.
[14] Tr. 73.
[15] Tr. 193.
[16] See *Passavant Health Center*, 278 NLRB 483 (1986).

II. ANALYSIS

A. The Union's ULP Charge is Timely under Section 10(b) of the Act

Before delving into the merits of this case, I must address whether this case is timely before the Board. Here, Respondents contend that the Union's ULP charge is untimely, because the Union received notice that Respondents adopted the Policy on August 21, 2015. However, the Union's initial ULP charge was filed on February 28, 2016, seven (7) days outside the 6-month statutory deadline to file notice of a violation.[17]

However, the evidence reveals that, on October 20, 2016, the Union amended its charge alleging that Respondents' *maintenance* and *enforcement* of the Policy, since January 1, 2015, violated the Act. With this clarification, the Union essentially alleges a continuing violation – that is, that, the mere maintenance (and enforcement) of the Policy creates a new violation which occurs every day that the Policy is in effect. Such an allegation resets the statute of limitations under Section 10(b). Accordingly, based on the foregoing, I find that the Union's ULP charge is timely.

B. The Purple Communications Legal Standard

Turning to the merits of this case, I must analyze Respondents' Policy under the standards set forth by the Board in *Purple Communications*.[18]

Employees' use of Respondents' email for Section 7 communications on nonworking time must be presumptively permitted if Respondents have given employees access to their email system for work-related purposes.[19] As such, Respondents may not restrict/prohibit employees from using their email systems during nonworking time, absent a showing that special circumstances are necessary to maintain production or discipline that justify Respondents' rule.[20] The Board's decision in *Boeing* did not disturb this precedent.[21]

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[17] See 29 U.S.C. § 160(b), also known as Section 10(b) of the Act – which provides that an ULP charge must be filed within 6 months of when the aggrieved party has "clear and unequivocal notice of a [ULP] violation."

[18] 361 NLRB 1050 (2014).

[19] Id. at 1063 (2014).

[20] Id.

[21] See *Caesars Entertainment,* 28-CA-060841, unpub. Board Order issued Aug. 1, 2018 (2018 WL 37033476) (inviting briefs to address whether the Board should adhere to, modify, or overrule *Purple Communications*).While I reopened the record to allow the parties to argue how the new standards set forth in *Boeing* may affect Respondents' no recording policy (Section 5.3.8), I made no such offer regarding Respondents' personal email use policy (Sections 5.2.1 and 5.2.2). Once the General Counsel withdrew the complaint allegations regarding Respondents' no-recording policy, the standards announced in *Boeing* became moot. Accordingly, as stated above, the correct standard to evaluate Respondents' email Policy is set forth in the Board's decision in *Purple Communications*.

To prove "special circumstances," Respondents must:

> [d]emonstrate the connection between the interest it asserts and the restriction. The mere assertion of an interest that could theoretically support a restriction will not suffice. And, ordinarily, an employer's interests will establish special circumstances only to the extent that those interests are not similarly affected by employee email use that the employer has authorized.[22]

C. Application of Purple Communications to Respondents' Email Use Rule

1. Respondents' rules restricting/prohibiting employees' personal use of their email system violates the Act

Section 5.2.1 restricts employees' personal emails use to usage that is "incidental [and] limited in frequency and scope…" Respondents contend that the rule does not violate the Act since it only limits "purely personal" email use – meaning email use unrelated to the employee's work. According to Respondents, Section 7 communications are not considered "personal" since they involve wages, hours, benefits and terms/conditions of employment which, they opine, concern issues regarding the employee's work. Thus, Respondents argue that Section 5.2.1's personal email limitations do not encompass Section 7 communications.

The problem with Respondents' argument is that the Policy fails to specifically state that Section 7 discussions over email are not considered personal email communications. In fact, someone would have to read several sections of Respondents' Policy (which are spread throughout the Policy) altogether in order to arrive at Respondents' interpretation that Section 7 email communications are not personal. This ambiguity must be resolved against Respondents.

Similarly, Section 5.2.2 forbids employees from sending "mass" personal messages, like chain letters, jokes, or other personal mass mailings that have no business purpose. However, employees are allowed to send "mass" business related emails if authorized by Respondents' management. Because this rule also fails to specifically state that Section 7 email communications constitute "personal" email use, such an ambiguity must be resolved against Respondents. Moreover, insofar as the rule bans all mass *personal* email distributions, without such a ban on mass *business* email distributions, it is squarely covered by the presumption that "employee use of email for statutorily protected communications on nonworking time must presumptively be permitted by employers who have chosen to give employees access to their email."[23] As such, I find both rules presumptively invalid.

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[22] *Purple Communications, supra* at fn 19. See also, *UPMC*, 362 NLRB No. 191, slip op at 4 (2015)(in applying the 'special circumstances' standard, the Board rejected an employer's claim that patient-safety concerns justified its ban on email solicitations, where the employer failed to prove that such concerns would not be "similarly affected by employee email use that [the] employer had already authorized").

[23] Id.

2. Respondents made no showing that special circumstances exist that justify encroaching on its employees' right to engage in Section 7 activity

Finally, I do not find that Respondents have established any special circumstances sufficient to justify restricting employees' personal email use. Respondents adduced no evidence that any aspect of their rules are necessary to maintain production and discipline within their work force other than Reimer's, Goddard's and Morgan's testimony regarding hypothetical scenarios that "could" happen if mass personal emails were distributed. However, Respondents are required to "demonstrate the connection between the interest it asserts and the restriction." Respondents have not done so in this case. Rather, they have merely asserted "… an interest (disruption of their network) that could theoretically support a restriction" which, the Board has held, is insufficient.

Respondents further claim that, to the extent the rule is found to restrict Section 7 communications, this is justified by special circumstances inherent to the hospital industry, vis-à-vis, protecting PHI and the requirements under the HIPPA Act. While Respondents concerns are well founded, the problem here is such a mass email distribution of PHI, if it ever happened, is *work related*, not personal. In fact, as Respondent's own witness testified, Respondents' built-in program would prevent such a mass work related distribution from being sent.

Moreover, Respondents' stated concerns over confidential PHI information being transmitted through a mass personal email are hypothetical only. Respondents failed to demonstrate evidence that any employee has ever transmitted PHI information via Respondents' email system to 500+ recipients. Indeed, the risk that confidential PHI information may be disclosed was created by Respondents when it granted employees email access during business hours in the first place, and Respondents cannot now justify its "nonbusiness" distinction with its Policy.[24]

While the *Purple Communications* Board suggested that an employer could justify "uniform and consistently enforced restrictions, such as prohibiting large attachments or audio-video segments," upon a showing that such emails would interfere with the efficient operation of its email system, no such showing has been made here. Indeed, Respondents have failed to provide evidence that mass personal email distributions have previously disrupted their business.

Finally, Respondents argued that the standard announced in *Purple Communications* should be overturned and that the instant case is the vehicle by which to do so. While I decline to make new law through this case, Respondents may ultimately get their wish, as the Board recently announced it will invite animus briefs to determine whether to adjust, modify or overrule *Purple Communications*.[25] Until the Board decides to chart a new course regarding those standards, I am bound by current Board law as set forth in *Purple Communications*.

[24] See, e.g., *UPMC*, 362 NLRB No. 191, slip op. at 4.

[25] See *Caesars Entertainment,* 28-CA-060841, unpub. Board Order issued Aug. 1, 2018 (2018 WL 37033476).

CONCLUSIONS OF LAW

1. Respondents are employers within the meaning of Sections 2(6) and (7) of the Act and are health care institutions within the meaning of Section 2(14) of the Act.

2. Respondents violated Section 8(a)(1) of the Act by maintaining an overly broad Electronic Assets Policy that effectively prohibits employees' personal use of Respondents' email system to engage in Section 7 communications during nonworking time.

3. By the conduct described above, Respondents have engaged in unfair labor practices affecting commerce within the meaning of Sections 2(2), (6), and (7) of the Act.

REMEDY

Having found that Respondents engaged in unfair labor practices, Respondents must rescind the unlawful provisions in their Policy and post an appropriate notice. Respondents may comply with this order by publishing and distributing to employees a revised Electronic Assets Policy that either does not contain the unlawful rules, or provide lawfully worded rules in its place. Alternately, to defray the expense of republishing its entire Policy, Respondents may furnish its employees with an insert for its current unlawful Policy provisions that either advises that the unlawful portions of its Policy have been rescinded, or provides a lawfully worded policy on adhesive backing that will cover the two unlawful restrictions (Sections 5.2.1 and 5.2.2).[26]

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended[27]

ORDER

Respondents, Kaiser Foundation Health Plan, Inc., Kaiser Foundation Hospitals, Southern California Permanente Medical Group, and the Permanente Medical Group, Inc., its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Maintaining the provision in their Electronic Assets Policy headed: "Electronic Asset

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[26] See *World Color (USA) Corp*., 360 NLRB 227, 228 (2014) (citing *SistersFood Group*, 357 NLRB 1816, 1823 fn. 32 (2011); *Guardsmark, LLC*, 344 NLRB 809, 812 fn. 8 (2005), enfd. in relevant part 475 F.3d 369 (D.C. Cir. 2007); see also Board Order, slip op. at 7 (Board's order regarding certain other of Respondent's handbook policies).

[27] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

Usage" and subheaded: "Section 5.2 Personal Use of KP Electronics" to the extent it prohibits employees from using Respondents' email system to send personal information.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

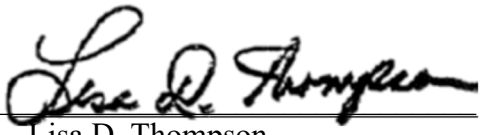
2. Take the following affirmative action necessary to effectuate the policies of the Act

(a) Rescind the language in their Electronic Assets Policy revised January 1, 2015 headed: "Electronic Asset Usage" and subheaded: "Section 5.2 Personal Use of KP Electronic Assets – 5.2.1 and 5.2.2" to the extent it states that employees must limit their use of personal email to usage that is "incidental, limited in frequency and scope," and that employees may not use Respondents' email system to send mass personal email messages that have no business purpose.

(b) Within 14 days after service by the Region, post at all of Respondents' facilities nationwide, copies of the attached notice marked "Appendix."[28] Copies of the notice, on forms provided by the Regional Director for Region 32, after being signed by Respondents' authorized representative, shall be posted by Respondents and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted, including by electronic means if available. Reasonable steps shall be taken by Respondents to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, Respondents has gone out of business or closed their facility involved in these proceedings, Respondents shall duplicate and mail, at their own expense, a copy of the notice to all current employees and former employees employed by Respondents at any time since January 1, 2015.

(c) Within 21 days after service by the Region, file with the Regional Director for Region 32 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that Respondent has taken to comply.

Dated: Washington, D.C., August 24, 2018



Lisa D. Thompson
Administrative Law Judge

[28] If this Order is enforced by a judgment of a United States court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES
Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefits and protection
Choose not to engage in any of these protected activities

In January 2015, we distributed to you an Electronic Asset Usage policy (Policy). Our prior Policy contained two overly restrictive provisions that interfered with certain of the rights guaranteed you by Section 7 of the Act. Our 2015 Policy maintained these overly restrictive provisions, which we will rescind, as explained below.

WE WILL NOT maintain a provision in our Policy that states that, personal use of our email system must be incidental, limited in frequency and scope, cannot incur additional costs to KP, and cannot impact employee performance.

WE WILL NOT maintain a provision in our Policy that states that you cannot send "mass" personal email messages (sent to large number of recipients) and/or you cannot use our email system to initiate or forward chain letters, jokes, or other personal mass mailings that have no business purpose.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL modify our 2015 Electronic Asset Usage Policy by rescinding the provisions that prohibits employees who are authorized to use or email system for work-related purposes from using our email system to distribute nonbusiness information at any time.

KAISER FOUNDATION HEALTH PLAN, INC.
(Employer)

Dated _____ By _____
(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

1301 Clay Street, Suite 300N
Oakland, California 94612-5224
Hours: 8:30 a.m. to 5:00 p.m.
510-637-3300

The Administrative Law Judge's decision can be found at www.nlrb.gov/case/32-CA-169979 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, 510-671-3034.

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WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL modify our 2015 Electronic Asset Usage Policy by rescinding the provisions that prohibits employees who are authorized to use or email system for work-related purposes from using our email system to distribute nonbusiness information at any time.

KAISER FOUNDATION HOSPITALS
(Employer)

Dated _____ By _____
(Representative) (Title)

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WE WILL modify our 2015 Electronic Asset Usage Policy by rescinding the provisions that prohibits employees who are authorized to use or email system for work-related purposes from using our email system to distribute nonbusiness information at any time.

SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP

(Employer)

Dated _____ By _____

(Representative) (Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlrb.gov.

1301 Clay Street, Suite 300N
Oakland, California 94612-5224
Hours: 8:30 a.m. to 5:00 p.m.
510-637-3300

The Administrative Law Judge's decision can be found at www.nlrb.gov/case/32-CA-169979 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, 510-671-3034.

APPENDIX

NOTICE TO EMPLOYEES
Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefits and protection
Choose not to engage in any of these protected activities

In January 2015, we distributed to you an Electronic Asset Usage policy (Policy). Our prior Policy contained two overly restrictive provisions that interfered with certain of the rights guaranteed you by Section 7 of the Act. Our 2015 Policy maintained these overly restrictive provisions, which we will rescind, as explained below.

WE WILL NOT maintain a provision in our Policy that states that, personal use of our email system must be incidental, limited in frequency and scope, cannot incur additional costs to KP, and cannot impact employee performance.

WE WILL NOT maintain a provision in our Policy that states that you cannot send "mass" personal email messages (sent to large number of recipients) and/or you cannot use our email system to initiate or forward chain letters, jokes, or other personal mass mailings that have no business purpose.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL modify our 2015 Electronic Asset Usage Policy by rescinding the provisions that prohibits employees who are authorized to use or email system for work-related purposes from using our email system to distribute nonbusiness information at any time.

THE PERMANENTE MEDICAL GROUP, INC.
(Employer)

Dated _____ By _____
(Representative) (Title)

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